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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference MDE:RPW:NL:FP18492	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. PCT/AU2003/001339	International Filing Date (day/month/year) 10 October 2003	Priority Date (day/month/year) 10 October 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> B65D 51/28, 41/50, 51/22		
Applicant LEO ENGINEERING PTY LTD et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 10 May 2004	Date of completion of the report 4 February 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  STEPHEN CLARK Telephone No. (02) 6283 2781

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**IV. Lack of unity of invention**

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
- ☒ not complied with for the following reasons:

Claims 1-21, 24 and 26 all relate to a device with a projection, a lid with an associated engagement means (except claim 21 which lacks the engagement means) and movement in a given direction causing the engagement means to act on the projection to open a compartment.

Claims 22-23 only relate to a lid on a compartment which is rotated unidirectionally to expose the compartment, in other words unscrewing the lid of a jar, bottle etc.

Claims 25 and 27 appear to define only portions of claims 1-20 as they are directed to particular features of each of these claims rather than referring to all the features of the invention defined by these claims.

Although the special technical features of these claims were different, the applicant was not invited to pay additional fees as all claims could be searched without additional effort.

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
- ☐ the parts relating to claims Nos.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 13,16-18	YES
	Claims 1-12,14,15,19-27	NO
Inventive step (IS)	Claims 13,16-18	YES
	Claims 1-12,14,15,19-27	NO
Industrial applicability (IA)	Claims 1-27	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

- |                   |               |
|-------------------|---------------|
| 1. US 5927549     | 4. EP 577200  |
| 2. WO 2002/051711 | 5. US 5246142 |
| 3. DE 19950884    |               |

**Novelty (N) Claims 1-12, 14, 15, 19-27**

Citation 1 discloses all of the features of claims 1, 3-5, 8, 10-12, 14, 15, 19-21 and 24-27. In particular it shows a projection (94) that opens a compartment by severing a seal (40) when an engagement means (66) is moved in a downwards direction. A pivotable/rotatable lid (20) is also provided. A tamper evident seal (56) is present. The compartment is able to be accessed via a valve (80). The citation also clearly discloses the individual features as well as the combined features to disclose the features of claims 24-27 which define individual features of the invention.

Citation 2 discloses the features of claims 1-4, 6-12, 15, 19-21 and 24-27 as it shows an engagement means (60) associated with a lid (14) to rotate and cause a hinged projection (30) to move into a position whereby it opens the compartment by causing a seal (92) to be severed. The lid is a screw-on/screw-off type and a tamper evident ring (22).

Citation 3 discloses the features of claim 21 as it shows relative movement of a lid (9) to cause a projection (22) to open a compartment (25).

Citation 4 discloses the features of claims 1, 3-6, 8, 9, 11, 12, 14, 15, 19-21 and 24-27 as it shows a projection (17) that tears a bottom (6) to open a compartment when engagement means (15) acts on the projection. A rotatable lid (18) is associated with the engagement means and has a tamper evident seal (19).

Citation 5 discloses the features of claims 22-23 as it shows at figures 10 and 14 the rotational movement of a lid (913, 1417) to open a compartment whereupon the lid may be removed.

The features of claims 13 and 16-18 of a removeable or insertable disc arrangable for engagement with a rim of the orifice in a closed position and the insert being a sleeve positionable in the neck of the receptacle, were not found in the citations.

**Inventive Step (IS) Claims 1-12, 14, 15, 19-27**

Claims 1-12, 14, 15, 19-27 as above.

Claim 10 lacks inventive step in light of citation 4 as it includes a threadable lid which would be obvious to a person skilled in the art to adapt to threadably engage a receptacle.

Claim 21 lacks inventive step in the light of citation 5 as the projection (35) of figure 1 is moved by the lid (32) to a position where it can open the compartment (30), but a further movement upwards is needed to finish the opening. It would be obvious to a PSA to make use of this citation in light of this claim.

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 22 and 23 do not define the features of the invention as they omit the projection and its relation to the lid and the opening of the compartment. It appears to merely define the removal of a lid from a receptacle.